

### Remarks

Claims 23 and 24 have been amended to correct the informality regarding the R groups.

Claims 2-26 stand rejected as anticipated under by Etzrodt, the Examiner referring to the abstract, columns 1-6 in the examples. At the outset, applicant questions the application of the Etzrodt Patent as a valid reference. Giving the Etzrodt reference the benefit of the earliest priority date, i.e., October 17, 1997, that date does not pre-date applicant's priority date of September 27, 1997. As the Examiner will readily recognize, applicant has duly claimed priority from the parent foreign application, i.e., German Application No. 19,742,828.2 that was filed on September 27, 1997. Accordingly, it is respectfully submitted that Etzrodt is not a valid §102(a) reference.

Aside from the fact that applicant disputes the viability of Etzrodt as a valid §102(a) reference, Etzrodt does nothing to anticipate Claims 2-26. All of Claims 2-26 recite that the composition contains a glycol ether. Nowhere in the Etzrodt reference is there any mention of the use of a glycol ether of any type. Accordingly, notwithstanding that Etzrodt may well teach the use of certain aluminum compound, there is no teaching of the use of such aluminum compounds in combination with glycol ether as set forth in all of Claims 2-26. Accordingly, it is respectfully submitted that Claims 20-26 are clearly patentable over Etzrodt.

Claims 2-26 also stand rejected as anticipated by *Nakano*, the Examiner referring to column 5, lines 32-35 and 47 to column 6, lines 1-3. The rejection is respectfully traversed. While it is true that the *Nakano* reference in column 5, lines 32-33, discloses certain aluminum compounds, including aluminum trisecoacetate; that compound is just one of a myriad of aluminum chelate compounds that the *Nakano* reference teaches are useful. In effect, the disclosure in column 5, lines 24-35 is a shotgun disclosure of numerous aluminum chelate compounds and, in fact, as stated in

lines 34-35 the scope of the aluminum chelate compounds is not limited to those specifically named. Accordingly, the skilled artisan would have no reason to select a particular aluminum compound such as claimed by applicants, since there is nothing to suggest that any of the aluminum chelate compound has any particular advantage over other countless aluminum chelate compounds. Furthermore, *Nakano* suffers from the same infirmity as Etzrodt, *vis-a-vis*, its disclosure of the use of applicant's claimed aluminum compound, and a glycol ether. The *Nakano* reference is devoid of any disclosure of the use of glycol ethers in any composition according to applicant's claims. Accordingly, it is respectfully submitted that Claims 2-26 are patentable over *Nakano*.

Claims 2, 4-7 and 15-26 stand rejected as anticipated by *Takashina*, the Examiner referring to columns 4 and 6 and Examples 1-2. This rejection is also respectfully traversed. The *Takashina* reference relates to a one package system cold-setting type coating composition that comprises an acrylic polymer having carboxyl groups and discloses in Example 1, the preparation of an aluminum compound by reacting aluminum isopropoxide with ethyl acetoacetate. However, as can clearly be seen, the compounds are reactive in a molar ratio of 1:2, which means that only two of the isopropoxide groups of the aluminum triisopropoxide are substituted, resulting in a trisubstituted aluminum comprised of two isopropoxide groups and an ethyl acetoacetate group. That is not the aluminum compound claimed in applicant's claims. Nowhere does the *Takashina* reference teach that all of the alkoxide groups attached to the aluminum are substituted with the specific ligand set forth in applicant's claims. Again, this is substantiated by reference to Example 1 of *Takashina*.

Nor can it realistically be argued that the *Takashina* reference discloses the presence of a glycol ether compound. While Example 2 teaches that the varnish of Example 1 is mixed with a solvent that contains, *inter alia*, ten parts of ethylene glycol monobutyl ether, the glycol ether is

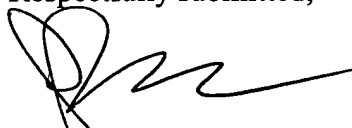
clearly part of a solvent and not a possible ligand attached to the aluminum. In this regard, note that in Example 1 when the aluminum alkoxide dicomplex is produced by reacting one mole of aluminum isopropoxide with two moles of ethyl acetoacetate, there is obtained an aluminum compound substituted with one isopropoxide group and two ethyl acetoacetate groups. However, according to the reaction set forth in the *Takashina* reference, this aluminum compound has reacted with the carboxyl groups of the acid to form the varnish. That being the case, it is not possible to substitute the aluminum group with any ethylene glycol monobutyl ether. This further supports the position that the ethylene glycol monobutyl ether referred to in Example 2 is merely part of a solvent system for the varnish produced in Example 1 and in no way takes part in the reaction to form a ligand of the aluminum compound.

It should also be noted that in column 5, lines 56-61 it is taught that the aluminum alkyl oxide complex is used in such an amount that an equivalent ratio of alkoxide groups of the aluminum alkoxide complex to carboxylic groups of the acrylic co-polymer or the alkyd resin is between 0.5 to 2.5 further demonstrating that the aluminum complex contains at least one alkoxide group.

It is respectfully submitted that Claims 2, 4-7 and 15-16 are patentable over *Takashina*.

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims are under condition for allowance which is hereby earnestly solicited and respectfully requested.

Respectfully submitted,

  
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Date: April 29, 2003

BROWNING BUSHMAN P.C.

CERTIFICATE OF MAILING

I, Sheri Cooper, hereby certify that this correspondence and all referenced enclosures are being deposited by me with the United States Postal Service as First Class Mail in an envelope addressed to: U.S. Commissioner for Patents and Trademarks, U.S. Patent and Trademark Office, Washington, D.C. 20231, on April 29, 2003.

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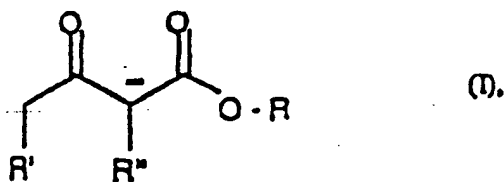
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IN THE CLAIMS

Kindly amend Claims 23 and 24 as follows:

23. (Amended) A composition comprising:

- (A) one or more aluminium compounds with three ligands per aluminium atom of the following kind:

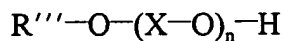


wherein:

R is a C<sub>1</sub>- to C<sub>12</sub>- hydrocarbon residue, which may comprise 1 to 4 ether linkages and/or one hydroxy group, and

R' and R'', independent of one another, are selected from the group consisting of H, one C<sub>1</sub>- to C<sub>4</sub>- hydrocarbon residue and mixtures thereof, and

- (B) at least one glycol ether compound of the following structure:



wherein:

R''' is a C<sub>1</sub>- to C<sub>18</sub>- hydrocarbon residue,

n is an integer of 1 to 10, and

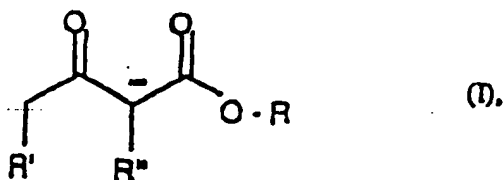
X is a saturated substituted or unsubstituted C<sub>1</sub>- to C<sub>6</sub>- hydrocarbon, which may be linked at any carbon atom and may be different for each n, and

the glycol ether compound (B) is contained in the composition in at least 5% by weight, relative to

the sum of the components (A) and (B) in the composition.

24. (Amended) A composition comprising:

- (A) one or more aluminum compounds with three ligands per aluminum atom of the following kind:

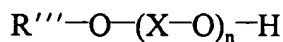


wherein:

R is a C<sub>1</sub>- to C<sub>12</sub>- hydrocarbon residue, which may comprise 1 to 4 ether linkages and/or one hydroxy group, and

R' and R'', independent of one another, are selected from the group consisting of H, one C<sub>1</sub>- to C<sub>4</sub>- hydrocarbon residue and mixtures thereof, and

- (B) at least one glycol ether compound of the following structure:



wherein:

R''' is a C<sub>1</sub>- to C<sub>18</sub>- hydrocarbon residue,

n is an integer of 2 to 8, and

X is a saturated substituted or unsubstituted C<sub>1</sub>- to C<sub>6</sub>- hydrocarbon, which may be linked at any carbon atom and may be different for each n, and

the glycol ether compound (B) is contained in the composition in at least 5% by weight, relative to the sum of the components (A) and (B) in the composition.